

立法會
Legislative Council

LC Paper No. LS 41/03-04

**Paper for the House Committee Meeting
on 13 February 2004**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 30 January 2003**

Date of Tabling in LegCo : 4 February 2004

Amendment to be made by : 3 March 2004 (or 24 March 2004 if extended by resolution)

PART I EXAMINATIONS IN NURSING

Nurses Registration Ordinance (Cap. 164)

Nurses (Registration and Disciplinary Procedure) (Amendment) Regulation 2004 (L.N. 7)

Enrolled Nurses (Enrolment and Disciplinary Procedure) (Amendment) Regulation 2004 (L.N. 8)

Under the existing regulation 13(1) of both the Nurses (Registration and Disciplinary Procedure) Regulations (Cap. 164 sub. leg. A) and the Enrolled Nurses (Enrolment and Disciplinary Procedure) Regulations (Cap. 164 sub. leg. B) respectively, the Nursing Council of Hong Kong ("the Council") shall cause such number of examinations in nursing to be held each year as may appear to the Council expedient having regard to the number of students or pupils from time to time studying nursing in the training schools for nurses or enrolled nurses. The existing regulation 13(3) of both the Nurses (Registration and Disciplinary Procedure) Regulations and the Enrolled Nurses (Enrolment and Disciplinary Procedure) Regulations provides that any person who has, on two occasions, failed to pass an examination required by these Regulations shall not be entitled to enter again unless he has undergone a period of additional training and instruction being not less than six months at a training school approved by the Council.

2. The Amendment Regulations repeal regulation 13(3) of the Nurses (Registration and Disciplinary Procedure) Regulations and the Enrolled Nurses (Enrolment and Disciplinary Procedure) Regulations respectively. According to the LegCo Brief, the reason for repealing regulation 13(3) of the Regulations is that with

the decrease in the number of local training schools offering sub-degree programmes, it is increasingly difficult for applicants who have failed to pass an examination on two occasions, especially those who are trained outside Hong Kong, to meet the aforesaid requirement of undergoing additional training and instruction of not less than six months before being allowed to enter the examination again. The existing licensing examination will continue to provide effective screening, and the Amendment Regulations therefore should not compromise the standard of nurses. Members may refer to LegCo Brief.: HWF CR/1D/3261/92(02) of 28 January 2004 issued by Health, Welfare and Food Bureau for background information.

3. The Panel on Health Services has not been consulted about the Amendment Rules.

4. Both Amendment Regulations will come into operation on 1 April 2004.

PART II QUARANTINE AND PREVENTION OF DISEASE

Quarantine and Prevention of Disease Ordinance (Cap. 141)

Quarantine and Prevention of Disease Ordinance (Amendment of First Schedule) Order 2004 (L.N. 14)

Prevention of the Spread of Infectious Diseases Regulations (Amendment of Form) Order 2004 (L.N. 15)

5. The Quarantine and Prevention of Disease Ordinance (Cap. 141) ("the Ordinance") consolidates the law relating to quarantine and prevention of disease among human beings. In the Ordinance, the term "infectious disease" is defined as any disease specified in the First Schedule to the Ordinance. L.N. 14 adds Influenza A (H5) to the list of infectious diseases in the First schedule to the Ordinance. The effect is that provisions relating to infectious diseases in the Ordinance and regulations made thereunder apply to this disease.

6. The Prevention of the Spread of Infectious Diseases Regulations (Cap. 141 sub. leg. B) ("the Regulations") were made under the Ordinance for the purpose of preventing the introduction into, the spread in and the transmission from, Hong Kong of any disease. Under section 4 of the Regulations, a medical practitioner or medical officer is required to notify the Director of Health forthwith in a form specified in the Regulations if he has reason to suspect the existence of a case of an infectious disease or, in the case of death, that an infectious disease existed. Consequential to the addition of Influenza A (H5) into the list of infectious diseases, L.N. 15 adds Influenza A (H5) to the specified form.

7. Members may refer to LegCo Brief File Ref.: HWF CR/4/2131/96(03) of 29 January 2004 from Health, Welfare and Food Bureau for background information.

8. The Administration informed the Panel on Food Safety and Environmental Hygiene of the gazettal of the two Orders at the Panel's special meeting on 30 January 2004 when discussing outbreaks of avian flu in neighbouring regions in Asia. Members generally welcomed the inclusion of Influenza A (H5) in the list of infectious diseases to facilitate early detection and prevention of spread of Influenza A (H5).

9. Both Orders came into operation on 30 January 2003 upon gazettal.

PART III COMMENCEMENT NOTICE

Employees Compensation Assistance (Amendment) Ordinance 2002 (16 of 2002) Employees Compensation Assistance (Amendment) Ordinance 2002 (16 of 2002) (Commencement) Notice 2004 (L.N. 13)

10. The Employees Compensation Assistance (Amendment) Ordinance 2002 (16 of 2002) ("the Ordinance") was enacted in June 2002 to introduce a package of measures with a view to improving the financial stability and viability of the Employees Compensation Assistance Fund ("the Fund"). It provides for, among other things, the excision of the protection available to employers in the event of the insurer's insolvency from the Fund when the Employees Compensation Insurer Insolvency Scheme operated by the insurance industry takes over the function of providing such protection.

11. This Notice appoints 1 April 2004 as the date on which certain provisions of the Ordinance will come into operation. These sections provide for the excision of the protection available to employers in the event of the insurer's insolvency and the transitional arrangements.

12. The other provisions of the Ordinance came into operation on 1 July 2002.

PART III MISCELLANEOUS

Protection of Children and Juveniles Ordinance (Cap. 213) Protection of Children and Juveniles (Places of Refuge) (Amendment) Order 2004 (L.N. 9)

13. This Order removes The Chuk Yuen Children's Reception Centre from the list of places of refuge specified for the purposes of the Protection of Children and Juveniles Ordinance (Cap. 213).

14. Members may refer to LegCo Brief File Ref.: HWF/W/27/1 of 28 January 2004 from Health, Welfare and Food Bureau for background information.

Banking Ordinance (Cap. 155)

Banking Ordinance (Amendment of Section 81(6)) Notice 2004 (L.N. 10)

15. Section 81(6) of the Banking Ordinance (Cap. 155) ("the Ordinance") sets out, for the purposes of section 81, the items which are not included as financial exposure of an authorized institution (defined under the Ordinance). This Notice amends section 81(6) of the Ordinance by adding a new item to the effect that any financial exposure to any of the following companies arising from the obligations placed upon the company for the purposes of the Guaranteed Mortgage-Backed Pass-Through Securitisation Programme ("the Programme") set up by The Hong Kong Mortgage Corporation Limited ("HKMC")-

- (a) the HKMC; or
- (b) any company that issues mortgage-backed securities in connection with the Programme,

does not form part of the financial exposure under section 81 of the Ordinance.

16. Members may refer to the LegCo Brief dated 30 January 2004 (no file reference) issued by the Financial Services Branch, Financial Services and the Treasury Bureau for background information. Paragraphs 2 and 3 of the Brief explain details of the Programme.

17. The Panel on Financial Affairs has not been consulted about the Notice.

18. This Notice will come into operation on 1 April 2004.

Import and Export (General) Regulations (Cap. 60 sub. leg. A)

Import and Export (General) Regulations (Amendment of Seventh Schedule) Notice 2004 (L.N. 11)

19. This Notice adds to the Seventh Schedule to the Import and Export (General) Regulations (Cap. 60 sub. leg. A) the Czech Republic as one of the specified countries or places within the meaning of Part VI of the Regulations for the purposes of implementing in Hong Kong an international certification scheme for rough diamonds known as the Kimberley Process Certification Scheme ("KPCS"). The effect of this Notice is that trade in rough diamonds may be carried on with the Czech Republic under the KPCS.

Tax Reserve Certificates (Fourth Series) Rules (Cap. 289 sub. leg. A)
Tax Reserve Certificates (Rate of Interest) Notice 2004 (L.N. 12)

20. This Notice fixes at 0.015% per annum the rate of interest payable on tax reserve certificates issued on or after 2 February 2004.

21. No difficulties relating to the legal and drafting aspects of the above items have been identified.

Prepared by

Lam Ping-man, Stephen
Assistant Legal Adviser
Legislative Council Secretariat
9 February 2004

LS/S/15/03-04